

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

IN RE AMTRUST FINANCIAL SERVICES,
INC. DERIVATIVE LITIGATION

C.A. No. 1:17-CV-00553-MN

STIPULATION AND [PROPOSED] ORDER OF DISMISSAL

WHEREAS, on December 11, 2017, Plaintiffs City of Lauderhill Police Officers' Retirement Plan, Pompano Beach Police & Firefighters' Retirement System, and West Palm Beach Police Pension Fund (collectively, "Plaintiffs") filed a Verified Second Amended Stockholder Derivative Complaint (D.I. 53) in the above-syled matter (the "Action") on behalf of nominal defendant AmTrust Financial Services, Inc. ("AmTrust") against certain current and former directors and officers of AmTrust;

WHEREAS, on November 29, 2018, a merger closed between AmTrust and Evergreen Merger Sub, Inc., by which AmTrust ceased to be a public company and became a wholly-owned subsidiary of Evergreen Parent, L.P. (the "Merger");

WHEREAS, as a result of the Merger, on January 17, 2019, Plaintiffs filed a Motion to Stay (the "Motion to Stay," D.I. 80) the Action pending resolution of motions to dismiss in *In re AmTrust Financial Services, Inc. Stockholder Litigation*, C.A. No. 2018-0396-AGB (the "Chancery Action") or further order of this Court, which Motion to Stay was opposed by Defendants on January 31, 2019 (D.I. 86);

WHEREAS, on February 1, 2019, Defendants filed a Motion to Dismiss The Verified Second Amended Stockholder Derivative Complaint For Lack Of Standing (D.I. 88);

WHEREAS, Plaintiffs are no longer stockholders of AmTrust after closing of the Merger, and therefore lack standing to proceed with the Action because it asserts only derivative claims;

WHEREAS, Plaintiffs have decided to dismiss the Action and to pursue direct claims relating to the Merger in the Chancery Action;

WHEREAS, Fed. R. Civ. P. 23.1(c) provides that “[n]otice of a proposed settlement, voluntary dismissal, or compromise must be given to shareholders or members in the manner that the court orders,” but “it is clear that when the dismissal … results from a jurisdictional defect, or is ordered because the claim has become moot, the notice requirement of the rule is not applicable,” Wright & Miller, 7C FEDERAL PRACTICE AND PROCEDURE CIV. § 1839 (3d ed.); *see also Weiss v. SCM Corp.*, 1986 WL 7782, at *1-*2 (S.D.N.Y. July 9, 1986) (where stockholder plaintiffs lost standing to bring derivative claims as a result of a transaction, “no notice of dismissal is required”); *BTZ, Inc. v. National Intergroup, Inc.*, 1993 WL 133211, at *4 (Del. Ch. Apr. 7, 1993) (“no notice to the class or the shareholders is necessary” where derivative and class action claims were dismissed for mootness);

WHEREAS, as a result of the Merger, AmTrust no longer has any public holders of its common stock, all of which is now held by Evergreen Parent, L.P., which has received notice of this stipulation of dismissal and has conveyed to the undersigned through counsel that it consents to the dismissal of this Action and waives any and all provisions for formal notice as may be required under Federal Rule of Civil Procedure 23.1;

WHEREAS, no compensation in any form has passed directly or indirectly from any of the Defendants to Plaintiffs or Plaintiffs’ attorneys and no promise to give any such compensation has been made;

IT IS HEREBY STIPULATED AND AGREED by the parties, through their undersigned counsel and subject to the approval of the Court, that the Action shall be dismissed.

SO STIPULATED AMONG COUNSEL:

DATED: February 14, 2019

/s/ Michael J. Barry

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____, 2019.

HON. MARYELLEN NOREIKA
U.S. DISTRICT JUDGE